

03-12397 PBS

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District <u>Massachusetts</u>
Name <u>Peter A. Groome</u>	Prisoner No. <u>W66452</u>	Case No. <u>SJC Nos. 08072</u> <u>2003-0113</u>
Place of Confinement <u>Old Colony Correctional Center - W66452</u> <u>One Administration Road, Bridgewater, MA 02324-3230</u>		
Name of Petitioner (include name under which convicted) <u>Peter A. Groome</u>		Name of Respondent (authorized person having custody of petitioner) <u>Timothy Hall, Superintendent</u>
The Attorney General of the State of: <u>Massachusetts</u>		
PETITION		
1. Name and location of court which entered the judgment of conviction under attack <u>Massachusetts</u>		MAGISTRATE JUDGE <u>Cohen</u>
2. Date of judgment of conviction <u>November 20, 2003</u>		
3. Length of sentence <u>Natural life without parole</u>		
4. Nature of offense involved (all counts) <u>Murder in First Degree</u>		
5. What was your plea? (Check one)		RECEIPT # <u>52066</u> AMOUNT \$ <u>5.00</u> SUMMONS ISSUED <u>—</u> LOCAL RULE 4.1 <u>—</u> WAIVER FORM <u>—</u> MCF ISSUED <u>—</u> BY DPTY. CLK. <u>Kim Dixon</u> DATE <u>11/26/03</u>
(a) Not guilty <input checked="" type="checkbox"/>		
(b) Guilty <input type="checkbox"/>		
(c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:		
6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input checked="" type="checkbox"/>		
(b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
8. Did you appeal from the judgment of conviction? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

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9. If you did appeal, answer the following:

- (a) Name of court **Supreme Judicial Court of Massachusetts**
- (b) Result **Affirmed**
- (c) Date of result and citation, if known **October 5, 2001**
- (d) Grounds raised **Violation of Miranda Rule and failure of court to suppress statement. Violation of defendant's 6th Amendment Right to an impartial jury by failing to instruct on manslaughter.**
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court

(2) Result

(3) Date of result and citation, if known

(4) Grounds raised

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court

(2) Result

(3) Date of result and citation, if known

(4) Grounds raised

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☒ No ☐

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court **Barnstable Superior Court Motion for New Trial**

(2) Nature of proceeding **Gatekeeper Petition, M.G.L. c. 278 sec. 33E
for review to Supreme Judicial Court**

(3) Grounds raised **Ineffective assistance of counsel to present adequate expert testimony and raise rights under Vienna Convention of Consular Relations to have statement suppressed.**

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(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☒

(5) Result **Denied**

(6) Date of result
November 20, 2003

(b) As to any second petition, application or motion give the same information:

(1) Name of court

(2) Name of proceeding

(3) Grounds raised

(4) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes ☐ No ☐

(5) Result

(6) Date of result

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one:

My confession was obtained in violation of Miranda.

Supporting FACTS (state *briefly* without citing cases or law):

I was arrested and interrogated without being given Miranda warnings, which led to my making incriminating statements. Two policemen, having targeted me as a suspect, took my license, keys, and green card (I am an Irish citizen) and questioned me about my whereabouts at the time of the killing and my relationship to the woman killed. This questioning led to a confession at the police station to which they transported me, which should have been suppressed as a violation of Miranda but was not.

B. Ground two:

Any waiver of Miranda rights was involuntary.

Supporting FACTS (state *briefly* without citing cases or law):

My "waiver" of Miranda rights after several hours of questioning and after police had considered me a prime suspect in the murder was not voluntary because I asked police if I needed a solicitor, explained that in my country that meant a lawyer, and they tricked me into foregoing my right by telling me that I didn't need one.

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C. Ground three:

The defendant's 6th amendment right to an impartial jury was violated when the judge refused to instruct on manslaughter.

Supporting FACTS (state *briefly* without citing cases or law):

There was evidence that the victim had provoked the defendant with inflammatory words "I have AIDS and now you do too." The defendant requested an instruction on manslaughter and the court refused to give ~~the~~ instruction.

D. Ground four:

Ineffective Assistance of Counsel

Supporting FACTS (state *briefly* without citing cases or law):

Counsel was ineffective where the expert testimony that was his only defense at trial was wholly inadequate; and counsel did not raise the defendant's rights under the Vienna Convention of Consular Relations to have his pre-trial custodial statement suppressed.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:
14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☒
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:
- (a) At preliminary hearing
- (b) At arraignment and plea
J. Drew Segadelli

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(c) At trial

Peter Muse

(d) At sentencing

Peter Muse

(e) On appeal

Cathlenine K. Byane

(f) In any post-conviction proceeding

Joseph S. Berman

(g) On appeal from any adverse ruling in a post-conviction proceeding

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

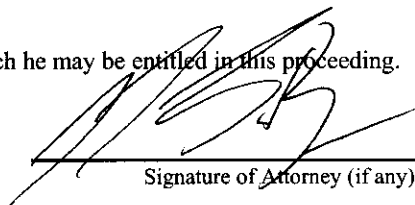
(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.


Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

11/26/2003
Date


Signature of Petitioner